

REMARKS/ARGUMENTS

Upon entry of this amendment which adds new claims 15-25, claims 1-25 will be pending.

In the Office Action, the drawings were objected to as failing to comply with 37 C.F.R. 1.84(p)(5); the drawings were objected to as failing to comply with 37 C.F.R. 1.84(p)(5); the disclosure was objected to because of informalities; and claims 1-14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Bhagavath, et al. (U.S. Patent No. 6,374,288, hereinafter "Bhagavath") in view of Dev et al. (U.S. Patent No. 5,751,933, hereinafter "Dev"). Applicants respectfully traverse the rejections.

Objections to the Drawings

The drawings were objected to as failing to comply with 37 C.F.R. 1.84(p)(5) because they did not include the following reference signs mentioned in the description: reference numeral 102, Fig. 3 on page 7, line 23 and reference numeral 400 of Fig. 4 on page 8, line 15. Applicants note that the reference numeral 102 is shown in Fig. 1. Data is gathered by performance management system 307 from network 102. Applicants submit that reference numeral 102 is thus shown in the drawings. Also, Applicants have submitted amended drawings for Fig. 4 adding the reference numeral 400.

The drawings were also objected to as failing to comply with 37 C.F.R. 1.84(p)(5) because they included the following reference characters not mentioned in the description: reference numeral 106 of Fig. 3, reference numeral 44 of Fig. 4, reference numeral 904 of Fig. 9, and reference numeral 1110 of Fig. 10. Applicants submit that reference numeral 106 is described in the specification. For example, page 4, lines 25-33 describe network element inventory 106. Further, network element inventory 106 is mentioned with respect to Fig. 3 on page 7, line 8 and page 7, line 23.

Applicants have amended Fig. 4 to change the reference numeral "404" to "204". Applicants submit that reference numeral 204 is described in the specification.

Applicants have amended the specification to include the reference numeral "S904". Thus, Applicants submit that reference numeral S904 is described in the specification. Accordingly, Applicants request withdrawal of the objections.

Objections to the Specification

The disclosure was objected to because of the following informalities: The serial numbers for the cross references in related applications were not provided. In response, Applicants have amended the specification to include serial numbers for the cross references in related applications.

Section 103 Rejections

Claim 1 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Bhagavath in view of Dev. Applicants submit that Bhagavath and Dev, either alone or in combination, do not disclose or suggest every element of claim 1.

The rejection asserts that Bhagavath does not specifically disclose identifying a virtual network transport in the video and data network for the one or more users but Dev does. Applicants submit that Dev does not disclose or suggest identifying a virtual network transport for the one or more users. Dev discloses generating a virtual network model of a physical network. The rejection cites col. 3, lines 56-66 as disclosing a virtual network transport. This description discusses a virtual network machine 12 that includes a software representation of the network being managed. Applicants submit that this does not disclose or suggest identifying a virtual network transport. Rather, this is a virtual representation of a physical network. The virtual representation is like a model of the physical network and does not disclose or suggest a virtual network transport. Dev discloses on col. 6, line 66-col. 7, line 1 that "the collection of models and model relations in the virtual network machine form a representation of the physical network being managed." In contrast, as disclosed in the user specification at page 10, lines 3-13, a virtual network transport includes the virtual network information includes virtual path assignments and/or IP addresses for the network equipment and users. The virtual path includes information describing how the data is transported through the physical network. Accordingly, a

virtual network model of the physical network is vastly different than identifying a virtual network transport of a video and data network.

The rejection asserts that Bhagavath discloses “identifying a physical network transport in the video and data network for the one or more users” at col. 7, lines 66-67 and col. 8, lines 1-11. Applicants submit that this description is a general description of a network. More specifically, the description is about the “Fast Ethernet protocol” that is used to send data. Applicants submit that nowhere in this reference is a physical network transport identified for one or more users. Applicants request that the Examiner show where a physical network transport for one or more users is identified.

The rejection asserts that “determining one or more threshold values for the one or more users’ service” is disclosed by Bhagavath at col. 9, lines 23-31. Applicants submit that the cited section in Bhagavath does not disclose or suggest determining one or more threshold values for one or more users’ service. Rather, the cited section of Bhagavath discloses a protocol data unit that a simple network management protocol (SNMP) employs. Applicants submit threshold values are not disclosed or suggested by this section of Bhagavath. Applicants request that the Examiner show how Bhagavath discloses determining threshold values for one or more users’ service.

Accordingly, Applicants respectfully request withdrawal of the rejection of claim 1. Claims 2-13 and 15-18 depend from claim 1 and thus derive patentability at least therefrom.

These claims also recite additional nonobvious and novel features. For example, claim 15 recites that the physical network transport comprises shared physical network elements and physical network elements specific to the one or more users. As recited in claim 16, the shared physical network elements are elements that are shared by the one or more users and users other than the one or more users. Additionally, claim 17 recites that the virtual network transport comprises shared virtual network elements and virtual network elements specific to the one or more users. As recited in claim 18, the shared virtual network elements comprise virtual network elements that are shared by the one or more users and users other than the one or more users. The cited references do not disclose or suggest monitoring performance data for physical

network elements and virtual network elements that are specific to the one or more users.

Rather, the cited references disclose identifying the physical network elements that are shared.

Applicants submit that claim 14 should be allowable for at least a similar rationale that is recited with respect to claim 1. Accordingly, Applicants respectfully request withdrawal of the rejection of claim 14.

New claims 19-25

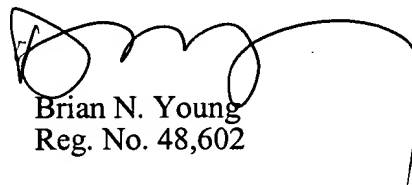
Applicants submit that new claims 19-25 are allowable over the cited references.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,



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Attachments
BNY:jtc
60364180 v1

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PATENT

Amendments to the Drawings:

The attached sheet of drawings includes changes to Fig. 4. This sheet, which includes Fig. 4 replaces the original sheet including Fig. 4.

Attachment: Replacement Sheet
Annotated Sheet Showing Changes

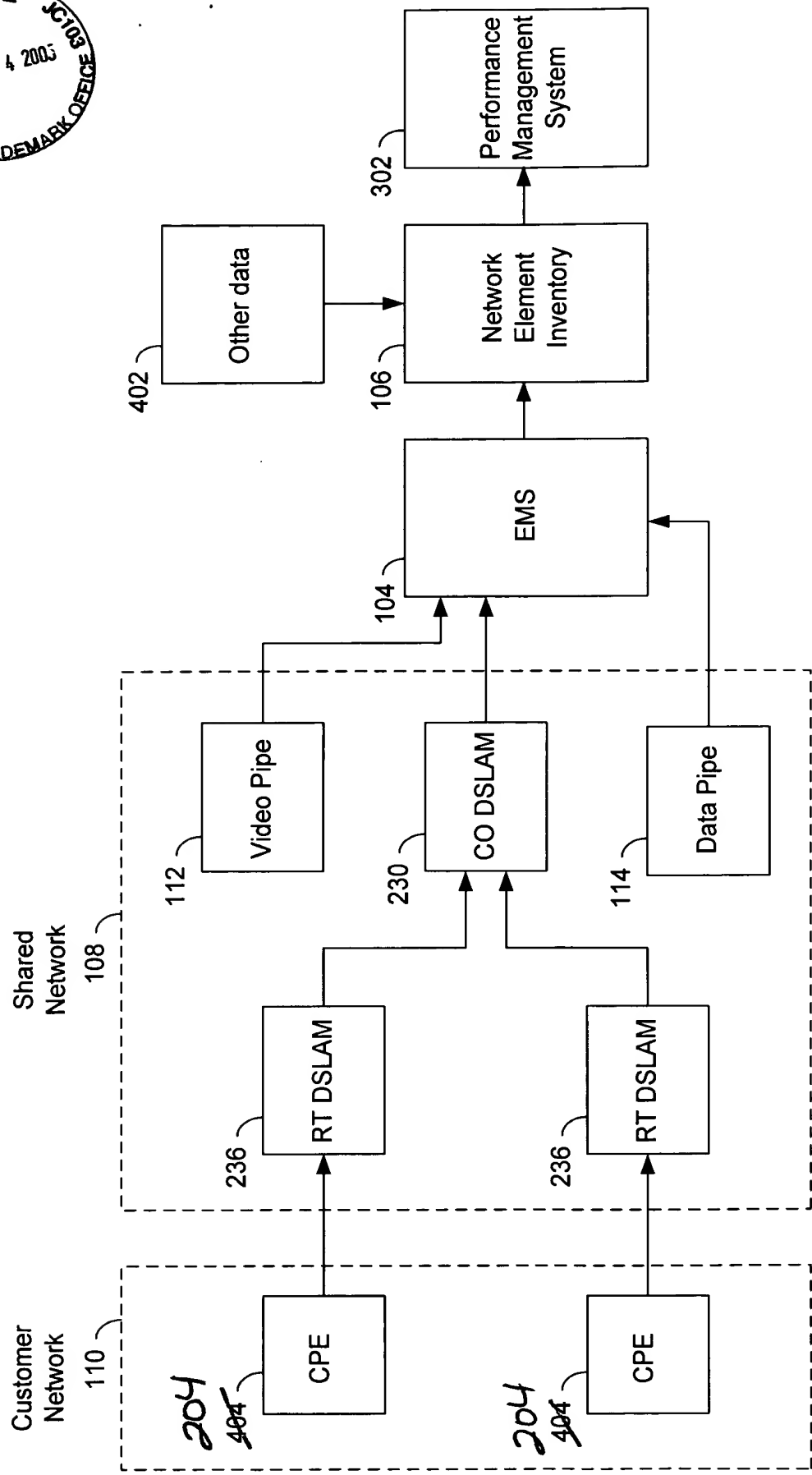
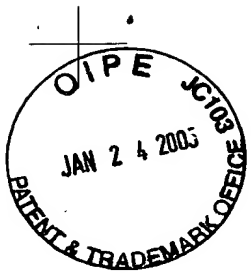


FIG. 4